# Are We Living in the “Eastphalian” Moment?

## South and East Asian Perspectives on International Law

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Diverging views and perspectives on international law are unavoidable. The global span of this body of law and the different geographical, cultural, religious and educational backgrounds of those who work with it contribute importantly to the understanding of its normative frameworks. *Multiperspectivism* and *situatedness* thus somewhat seem to be inherent to the DNA of international law (see e.g. here; see also this recent book). The fact that scholars from different countries and continents see and assess differently violations of international law is telling of that. And this pluralism of perspectives is not only unavoidable, it is in fact also desirable and represents the plurality of the world as it exists. Nonetheless, the question arises whether and how different perspectives on international law can be reconciled with international law’s claim to universality and the ideal of *intersubjective comprehensibility*, at the heart of which arguably lies the very question of the scientific value of international legal scholarship. In times of growing nationalism and populism, when also international law and international legal scholarship increasingly come under pressure, this seems even more pressing (see on this recently here).

The question of the perspectives on international law also gains importance in times of profound global changes. With the growing power of Asia, the question has arisen whether we are witnessing the sunset of the “Westphalian” and the birth of a new “Eastphalian” world order. The Trans-Pacific Partnership (TPP-11) likely to be ratified next year and the emergence of ASEAN as a strong regional economic organization seem to testify this development; but many especially argue that China as major global economic player pursues a strategy to fundamentally reinterpret the international order as it exists.

Of course, as is increasingly recognized today, international law has never been the neutral and “universal” project it has claimed to be. Research has long shown that the international legal system has been framed and shaped by the West which exported, in often very complex relationships, its norms and views to the rest of the world. The European bias of the international law we know and the concepts and values underpinning it remain an issue in politics and for legal scholarship up to now and in recent times are even used as justification to reject the current international legal order. The decision of the Philippines to retreat from the International Criminal Court over the reproach to „politicise and weaponize human rights” can be read in this light, but also the debates about the South China Sea. This dispute gives

a showcase of a contestation of the international legal order by hegemonic accusations or historical arguments and a legalistic defense of the existing norms by scholars and governments.

Aside the problematic hegemonic origins of international law, also other, structural factors stand in the way of a truly universal international law until today. For one thing, international legal scholarship, which by definition treats a subject that crosses borders, depends on transnational discourses. However, the economic and legal organization of the existing publishing market does not allow for truly global scholarly communication. Given that open access publications remain the exception rather than the rule, pay walls keep on building important obstacles for access to knowledge and exclude members of the scientific community (see on this e.g. here). Moreover, also language keeps on building barriers to the flow of knowledge and scholarly communication, favoring those who master English as the lingua franca in the international legal system. Also the fact that knowledge production and diffusion take place mainly in national contexts and the over-representation of "Western" authors from a handful of – again mainly U.S. or European – elite law schools has not only put into question the famous invisible college of lawyers, but more generally, whether international law really is international.

Can the "Rise of the East" thus be seen as an opportunity that may contribute to a democratization of international law, or are we just entering a phase of different hegemonic power relations, this time by a non-Western key player? This is the starting point of this symposium, which, building on the approach of *comparative international law* as developed in the work of Anthea Roberts and others, seeks to invite scholars from or situated in South and East-Asia to reflect on and discuss some of the following (or related) questions: How does the domestic context concretely shape the perspectives on international law, and how can this be reconciled with the claim to universality of international law and international legal scholarship? Where do Asian voices from different backgrounds see the main challenges to international law, and in how far do they differ from so-called "Western" positions? Which fields and aspects of international law are most considered to be in the need for reform and change? What are the ideas about a future international law? And finally – and importantly – can the ongoing changes be seen as a chance to make international law more universal (in the true sense), or does universalism inevitably have to end up in a hegemonic project?

The symposium will take place in the upcoming three weeks; however, we hope to build hereby an avenue for ongoing discussions on different perspectives on internatioanl law. Therefore, as always we welcome further reactions, opinions and thoughts on the topic!

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